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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/588,407	06/06/2000	Richard D. Blackmore	240-P-028	9445

26328 7590 09/26/2005

LAW OFFICE OF DAVID MCEWING
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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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09/588407

EXAMINER

ART UNIT	PAPER
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092305

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Commissioner for Patents

See attached "NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 41.37(c)".

Art Unit: 1733

NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 41.37(c)

The brief does not contain a statement of the status of all the claims, e.g., rejected, allowed or confirmed, withdrawn, objected to, or canceled, and identification of the claims being appealed as required by 37 CFR 41.37(c)(1)(iii).

The brief does not contain a statement of the status of claims 18 and 19.

More importantly, the brief incorrectly identifies the status of claims 1-2 and 4-6 as being canceled claims. Claims 1-2 and 4-6 are pending claims. In the after final amendment filed 5-3-05 (the *only* after final amendment identified by the brief), applicant *amended claim 1 instead of canceling claim 1*. The advisory action dated 5-23-05 indicated that the after final amendment filed 5-3-05 would be entered and identified claims "1, 2, 4-6, 12-16, 20, 22 and 26-28" (emphasis added) as being rejected.

The brief does not contain a statement of the status of an amendment filed subsequent to the final rejection as required by 37 CFR 41.37(c)(1)(iv).

The brief does not contain a statement of the status of the after final amendment filed 3-30-05.

The brief does not contain a concise statement of each ground of rejection presented for review as required by 37 CFR 41.37(c)(1)(vi).

The brief describes issues instead of grounds of rejections and incorrectly identifies the prior art grounds of rejection for (1) claims 1-2, 6, 12-13 and 26-27,

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(2) claim 28 and (3) claims 4-5 and 14-16. A correct statement of the grounds of rejection are set forth in the attachment to the advisory action mailed 5-23-05 which entered the amendment filed 5-3-05.

Each ground of rejection must be treated under a separate heading. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. Any claim argued separately should be placed under a subheading identifying the claim by number. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim. See 37 CFR 41.37(c)(1)(vii).

The brief merely points out what each of claims 12, 13, 14, 15, 16, 20, 22, 26, 27 and 28 recites and/or does not place each of these claims under a separate subheading. For example: The brief points out what claim 13 recites but does not appear to include an argument for separate patentability for this claim. Another example, page 44 of the brief appears to separately argue claim 15, but does not include a subheading identifying claim 15 by number. Another example: claim 12 is placed under the heading "ISSUE No. 4". However, this subheading does not identify claim 12 by number. Also, the first full paragraph after "ISSUE No. 4" does not contain a concise statement of a ground of rejection presented for review as required by 37 CFR 41.37(c)(1)(vi).

Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the

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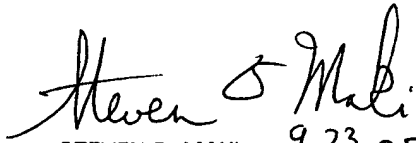
mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
September 23, 2005


STEVEN D. MAKI
PRIMARY EXAMINER
~~GROUP 1300~~
AU 1733
9-23-05